



DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE-2014-BT-CE-0019]

RIN 1904–AD25

Energy Conservation Program: Certification, Compliance, Labeling, and Enforcement for Electric Motors and Small Electric Motors; Withdrawal

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Department of Energy (“DOE” or the “Department”) is withdrawing a notice of proposed rulemaking (NOPR) issued on June 24, 2016 that proposed to revise its certification, compliance, and enforcement regulations for electric motors and small electric motors to conform to the enforcement regulations for all other covered products and equipment and to consolidate, to a limited extent, the certification and compliance regulations for electric motors and small electric motors with those for other types of covered products and equipment.

DATES: The proposed rule that published in the *Federal Register* on June 24, 2016 at 81 FR 41377 is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The docket for this rulemaking, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at

www.regulations.gov. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at <https://www.regulations.gov/docket?D=EERE-2014-BT-CE-0019>. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Title III of the Energy Policy and Conservation Act of 1975, as amended (“EPCA” or, in context, “the Act”) sets forth a variety of provisions designed to improve energy efficiency. Part B of Title III (42 U.S.C. 6291-6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. The National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, amended EPCA to add Part C of Title III, which established an energy conservation program for certain industrial

equipment. (42 U.S.C. 6311-6317)¹ Included among the various equipment types addressed by EPCA² are electric motors and small electric motors.

As relevant here, DOE's energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products and covered equipment must use as the basis for: (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA; and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.³ Further, 42 U.S.C. 6299-6305, 6316, and 6317 authorize DOE to enforce compliance with the energy conservation standards related to a variety of consumer products and commercial equipment, including electric motors and small electric motors.

On June 24, 2016, DOE published a notice of proposed rulemaking (NPR) proposing to revise its certification and enforcement regulations for electric motors and small electric motors. 81 FR 41377. DOE proposed to: (1) move and amend certification and sampling provisions for electric motors to 10 CFR 429.12 and 10 CFR 429.63, (2) replace the currently used compliance certification number with a new manufacturer's identification number (3) move the sampling and certification testing provisions for small electric motors to 10 CFR 429.12 and 10 CFR 429.64, (4) add certification provisions

¹ For editorial reasons, Parts B (consumer products) and C (commercial equipment) of Title III of EPCA were codified as parts A and A-1, respectively, in the United States Code.

² All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Pub. L. 116-260 (Dec. 27, 2020).

³ The test procedures for electric motors are described in appendix B to subpart B of 10 CFR part 431; the test procedures for small electric motors are described in 10 CFR 431.444.

specific to small electric motors to 10 CFR 429.64, (5) move and amend existing AEDM provisions for electric motors and for small electric motors to 10 CFR 429.70, (6) move and amend the administrative process for recognizing certification programs to new sections 10 CFR 429.73 and 10 CFR 429.75, (7) add an administrative process for recognizing testing laboratories, either directly or through recognition of accreditation organizations, to new sections 10 CFR 429.74 and 10 CFR 429.75, (8) move the electric motor labeling requirements from 10 CFR 431.31 to 10 CFR 429.76, (9) add labeling requirements for small electric motors, (10) add a definition for “independent” to describe how DOE would evaluate the independence of testing laboratories and certification programs, (11) revise the definition of basic model for electric motors and small electric motors, (12) add a definition for “equipment class”, (13) remove definitions related to accreditation as a result of the proposed changes regarding laboratory accreditation, (14) apply the enforcement procedure found at subpart C of part 429 to electric motors and small electric motors, (15) address how to treat electric motors and small electric motors that are capable of operation at multiple voltages, and (16) clarify the exclusion for small electric motors found at 42 U.S.C. 6317(b)(3).

DOE received negative comment on a variety of its proposals, and DOE had expected to solicit further comment on those issues. For the proposals on which DOE received supportive comment, DOE prepared a final rule, which was issued on January 11, 2017 (“pre-publication final rule”). On January 20, 2017, the heads of executive departments were directed to withdraw any rules immediately that were not yet published. 82 FR 8346 (January 24, 2017). Accordingly, DOE withdrew the pre-publication final rule from the *Federal Register* for further review. On March 9, 2017, NEMA requested that DOE not return the pre-publication final rule to the *Federal*

Register for publication. The pre-publication final rule was never published in the *Federal Register*.

In the intervening time, DOE has undertaken a few different rulemakings and activities related to electric motors and small electric motors. For example, DOE published a final rule pertaining to test procedures for electric motors and small electric motor. 86 FR 4 (January 4, 2021). DOE also classified North Carolina Advanced Energy Corporation as a nationally recognized certification program. 85 FR 40270 (July 6, 2020).

In addition, Issue 14 from the NOPR is now being addressed through a new enforcement rulemaking. *See* Docket EERE–2019–BT–CE–0015 (available at <https://www.regulations.gov/docket?D=EERE-2019-BT-CE-0015>). On that issue, DOE published a notice of proposed rulemaking proposing changes to enforcement procedures for all products, including electric motors and small electric motors. 85 FR 53691 (August 31, 2020).

Over four years have passed since the drafting of the pre-publication final rule and even more time has passed since DOE received comment on its proposals. In addition, commenters opposed the publication of the pre-publication final rule in the *Federal Register*.

After consideration of comments and the prolonged interlude since the publication of DOE's proposals, the Department is withdrawing this rulemaking proposal. The purpose of this rulemaking was to provide more consistency in DOE's certification and enforcement regulations across all types of covered products and covered equipment. It was also intended to provide greater clarity with respect to a number of issues industry

and test facilities had raised. While the Department believes that there is a benefit to addressing certification of electric motors and small electric motors, DOE also takes seriously industry concerns about the potential burden of this proposal. DOE also notes that the enforcement regulations will be addressed through a different rulemaking.

Accordingly, DOE withdraws the June 24, 2016 NOPR published at 81 FR 41377.

Signing Authority

This document of the Department of Energy was signed on October 26, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on October 26, 2021.

Treena V. Garrett
Federal Register Liaison Officer,
U.S. Department of Energy

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